

Assembly Bill No. 2056

CHAPTER 896

An act to add Part 9 (commencing with Section 12880) to Division 2 of, the Insurance Code, relating to insurance.

[Approved by Governor September 30, 2014. Filed with
Secretary of State September 30, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2056, Dababneh. Insurance: pet insurance.

Existing law governs the business of insurance and authorizes the Insurance Commissioner to provide oversight over the insurance industry including, life and disability insurance, health insurance, workers' compensation, and liability insurance. The commissioner is authorized to, among other things, conduct investigations and bring enforcement actions against insurers for violations of the laws governing the business of insurance.

This bill would regulate pet insurance policies that are marketed, issued, amended, renewed, or delivered, whether or not in California, to a California resident, on or after July 1, 2015, regardless of the situs of the contract or master group policyholder, or the jurisdiction in which the contract was issued or delivered. The bill would define certain terms and specify certain disclosures a pet insurer is required to make to consumers. The bill would also require an insurer transacting pet insurance in this state to disclose, among other things, whether the policy excludes coverage because of a preexisting condition, a hereditary disorder, a congenital anomaly, or a chronic condition, and would require that pet insurance policies have a free look cancellation period of not less than 30 days, as provided.

This bill would authorize the commissioner to hold a hearing to determine if an insurer is in violation of the provisions governing pet insurance and to assess a civil penalty, which is to be determined by the commissioner but not to exceed \$5,000 for each violation, or \$10,000 for a willful violation. The hearing would be required to be conducted pursuant to the Administrative Procedure Act, except as specified, and a person found to be in violation may have the proceedings reviewed by means of any remedy pursuant to a specified statute or the Administrative Procedure Act. The bill would authorize the commissioner to adopt reasonable rules and regulations, as necessary, in accordance with the Administrative Procedure Act in order to implement these requirements.

The people of the State of California do enact as follows:

SECTION 1. Part 9 (commencing with Section 12880) is added to Division 2 of the Insurance Code, to read:

PART 9. PET INSURANCE

12880. For purposes of this part, the following definitions shall apply:

(a) "Chronic condition" means a condition that can be treated or managed, but not cured.

(b) "Congenital anomaly or disorder" means a condition that is present from birth, whether inherited or caused by the environment, which may cause or otherwise contribute to illness or disease.

(c) "Hereditary disorder" means an abnormality that is genetically transmitted from parent to offspring and may cause illness or disease.

(d) "Pet insurance" means an individual or group insurance policy that provides coverage for veterinary expenses.

(e) "Preexisting condition" means any condition for which a veterinarian provided medical advice, the pet received treatment for, or the pet displayed signs or symptoms consistent with the stated condition prior to the effective date of a pet insurance policy or during any waiting period.

(f) "Veterinarian" means an individual who holds a valid license to practice veterinary medicine from the Veterinary Medical Board pursuant to Chapter 11 (commencing with Section 4800) of Division 2 of the Business and Professions Code or other appropriate licensing entity in the jurisdiction in which he or she practices.

(g) "Veterinary expenses" means the costs associated with medical advice, diagnosis, care, or treatment provided by a veterinarian, including, but not limited to, the cost of drugs prescribed by a veterinarian.

(h) "Waiting or affiliation period" means the period of time specified in a pet insurance policy that is required to transpire before some or all of the coverage in the policy can begin.

12880.1. A policy of pet insurance that is marketed, issued, amended, renewed, or delivered, whether or not in California, to a California resident, on or after July 1, 2015, regardless of the situs of the contract or master group policyholder, or the jurisdiction in which the contract was issued or delivered, is subject to this part.

12880.2. (a) An insurer transacting pet insurance in California shall disclose all of the following to consumers:

(1) If the policy excludes coverage due to any of the following:

(A) A preexisting condition.

(B) A hereditary disorder.

(C) A congenital anomaly or disorder.

(D) A chronic condition.

(2) If the policy includes any other exclusion, the following statement: “Other exclusions may apply. Please refer to the exclusions section of the policy for more information.”

(3) Any policy provision that limits coverage through a waiting or affiliation period, a deductible, coinsurance, or an annual or lifetime policy limit.

(4) Whether the insurer reduces coverage or increases premiums based on the insured’s claim history.

(b) (1) If a pet insurer uses any of the terms in paragraph (1) of subdivision (a) in a policy of pet insurance, the insurer shall use the definition of those terms as set forth in Section 12880 and include the definition of the term in the policy. The pet insurer shall also make that definition available through a link on the main page of the insurer’s Internet Web site.

(2) Nothing in this subdivision or Section 12880 in any way prohibits or limits the types of exclusions pet insurers may use in their policies, nor does it require pet insurers to have any of the limitations or exclusions defined in Section 12880.

(c) A pet insurer shall clearly disclose a summary description of the basis or formula on which the insurer determines claim payments under a pet insurance policy within the policy and through a link on the main page of the insurer’s Internet Web site.

(d) A pet insurer that uses a benefit schedule to determine claim payment under a pet insurance policy shall do both of the following:

(1) Clearly disclose the applicable benefit schedule in the policy.

(2) Disclose all benefit schedules used by the insurer under its pet insurance policies through a link on the main page of the insurer’s Internet Web site.

(e) A pet insurer that determines claim payments under a pet insurance policy based on usual and customary fees, or any other reimbursement limitation based on prevailing veterinary service provider charges, shall do both of the following:

(1) Include a usual and customary fee limitation provision in the policy that clearly describes the insurer’s basis for determining usual and customary fees and how that basis is applied in calculating claim payments.

(2) Disclose the insurer’s basis for determining usual and customary fees through a link on the main page of the insurer’s Internet Web site.

(f) The insurer shall create a summary of all policy provisions required in subdivisions (a) through (e), inclusive, into a separate document titled “Insurer Disclosure of Important Policy Provisions.”

(g) The insurer shall post the “Insurer Disclosure of Important Policy Provisions” document required in subdivision (f) through a link on the main page of the insurer’s Internet Web site.

(h) (1) In connection with the issuance of a new pet insurance policy, the insurer shall provide the consumer with a copy of the “Insurer Disclosure of Important Policy Provisions” document required pursuant to subdivision (f) in at least 12-point type when it delivers the policy.

(2) In addition, the pet insurance policy shall have clearly printed thereon or attached thereto a notice stating that, after receipt of the policy by the owner, the policy may be returned by the insured for cancellation by delivering it or mailing it to the insurer or to the agent through whom it was purchased.

(A) The period of time set forth by the insurer for return of the policy shall be clearly stated on the notice, and this free look period shall be not less than 30 days. The insured may return the policy to the insurer or the agent through whom the policy was purchased at any time during the free look period specified in the notice.

(B) The delivery or mailing of the policy by the insured pursuant to this paragraph shall void the policy from the beginning, and the parties shall be in the same position as if a policy or contract had not been issued.

(C) All premiums paid and any policy fee paid for the policy shall be refunded to the insured within 30 days from the date that the insurer is notified of the cancellation. However, if the insurer has paid any claim, or has advised the insured in writing that a claim will be paid, the 30-day free look right pursuant to this paragraph is inapplicable and instead the policy provisions relating to cancellation apply to any refund.

(i) The disclosures required in this section shall be in addition to any other disclosure requirements required by law or regulation.

12880.3. (a) A person who violates a provision of this part is liable to the state for a civil penalty to be determined by the commissioner, not to exceed five thousand dollars (\$5,000) for each violation, or, if the violation was willful, a civil penalty not to exceed ten thousand dollars (\$10,000) for each violation. The commissioner may establish the acts that constitute a distinct violation for purposes of this section. However, when the issuance, amendment, or servicing of a policy or endorsement is inadvertent, all of those acts constitute a single violation for purposes of this section.

(b) The penalty imposed by this section shall be imposed by and determined by the commissioner pursuant to Section 12880.4. The penalty imposed by this section is appealable by means of any remedy provided by Section 12940 or by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

12880.4. (a) Whenever the commissioner shall have reason to believe that a person has engaged or is engaging in this state in a violation of this article, and that a proceeding by the commissioner in respect thereto would be to the interest of the public, he or she shall issue and serve upon that person an order to show cause containing a statement of the charges in that respect, a statement of that person's potential liability under this part, and a notice of a hearing thereon to be held at a time and place fixed therein, which shall not be less than 30 days after the service thereof, for the purpose of determining whether the commissioner should issue an order to that person to pay the penalty imposed by Section 12880.3 and to cease and desist those methods, acts, or practices, or any of them, that violate this article.

(b) If the charges or any of them are found to be justified, the commissioner shall issue and cause to be served upon that person an order requiring that person to pay the penalty imposed by Section 12880.3 and to cease and desist from engaging in those methods, acts, or practices found to be in violation of this part.

(c) The hearing shall be conducted in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), except that the hearings may be conducted by an administrative law judge in the administrative law bureau when the proceedings involve a common question of law or fact with another proceeding arising under other Insurance Code sections that may be conducted by administrative law bureau administrative law judges. The commissioner and the appointed administrative law judge shall have all the powers granted under the Administrative Procedure Act.

(d) The person shall be entitled to have the proceedings and the order reviewed by means of any remedy provided by Section 12940 or by the Administrative Procedure Act.

12880.5. The commissioner may adopt reasonable rules and regulations, as are necessary to administer this part, in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).